

AMENDED IN ASSEMBLY APRIL 16, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 763**

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**Introduced by Assembly Member Saldana**

February 22, 2007

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An act to amend Sections 66452.5, 66452.8, 66452.9, 66459, and 66499.37 of, to add Sections 66452.11 and 66452.12 to, and to repeal and add Section 66427.1 of, the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 763, as amended, Saldana. Condominium conversion: tenant notification.

The Subdivision Map Act prohibits a legislative body from approving a final map for a subdivision to be created from the conversion of residential real property into a condominium project, a community apartment project, or a stock cooperative project, unless the legislative body finds that there has been compliance with certain tenant notice requirements.

This bill would recast the specified prohibition and would make other, technical changes to related provisions of existing law.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 66427.1 of the Government Code is
- 2 repealed.
- 3 SEC. 2. Section 66427.1 is added to the Government Code, to
- 4 read:

1     66427.1. (a) The legislative body shall not approve a final  
2 map for a subdivision to be created from the conversion of  
3 residential real property into a condominium project, a community  
4 apartment project, or a stock cooperative project, unless it finds  
5 as follows:

6     (1) Each tenant of the proposed condominium, community  
7 apartment project, or stock cooperative project, and each person  
8 applying for the rental of a unit in the residential real property, has  
9 received or will have received all applicable notices and rights  
10 now or hereafter required by this chapter or Chapter 3  
11 (commencing with Section 66451).

12     (2) Each of the tenants of the proposed condominium,  
13 community apartment project, or stock cooperative project has  
14 received or will receive each of the following notices:

15     (A) Written notification, pursuant to Section 66452.9, of  
16 intention to convert, provided at least 60 days prior to the filing  
17 of a tentative map pursuant to Section 66452.

18     (B) Ten days' written notification that an application for a public  
19 report will be, or has been, submitted to the Department of Real  
20 Estate, that the period for each tenant's right to purchase begins  
21 with the issuance of the final public report, and that the report will  
22 be available on request.

23     (C) Written notification that the subdivider has received the  
24 public report from the Department of Real Estate. This notice shall  
25 be provided within five days after the date that the subdivider  
26 receives the public report from the Department of Real Estate.

27     (D) Written notification within 10 days after approval of a final  
28 map for the proposed conversion.

29     (E) One hundred eighty days' written notice of intention to  
30 convert, provided prior to termination of tenancy due to the  
31 conversion or proposed conversion pursuant to Section 66452.11,  
32 but not before the local authority has approved a tentative map for  
33 the conversion. The notice given pursuant to this paragraph shall  
34 not alter or abridge the rights or obligations of the parties in  
35 performance of their covenants, including, but not limited to, the  
36 provision of services, payment of rent, or the obligations imposed  
37 by Sections 1941, 1941.1, and 1941.2 of the Civil Code.

38     (F) Notice of an exclusive right to contract for the purchase of  
39 his or her respective unit upon the same terms and conditions that  
40 the unit will be initially offered to the general public or terms more

1 favorable to the tenant. The exclusive right to purchase shall  
2 commence on the date the subdivision public report is issued, as  
3 provided in Section 11018.2 of the Business and Professions Code,  
4 and shall run for a period of not less than 90 days, unless the tenant  
5 gives prior written notice of his or her intention not to exercise the  
6 right.

7 (b) The written notices to tenants required by subparagraphs  
8 (A) and (B) of paragraph (2) of subdivision (a) shall be deemed  
9 satisfied if those notices comply with the legal requirements for  
10 service by mail.

11 (c) This section shall not diminish, limit or expand, other than  
12 as provided herein, the authority of any city, county, or city and  
13 county to approve or disapprove condominium projects.

14 (d) If a rental agreement was negotiated in Spanish, Chinese,  
15 Tagalog, Vietnamese, or Korean, all required written notices  
16 regarding the conversion of residential real property into a  
17 condominium project, a community apartment project, or a stock  
18 cooperative project shall be issued in the tenant's primary language.

19 SEC. 3. Section 66452.5 of the Government Code is amended  
20 to read:

21 66452.5. (a) (1) The subdivider, or any tenant of the subject  
22 property, in the case of a proposed conversion of residential real  
23 property to a condominium project, community apartment project,  
24 or stock cooperative project, may appeal from any action of the  
25 advisory agency with respect to a tentative map to the appeal board  
26 established by local ordinance or, if none, to the legislative body.

27 (2) The appeal shall be filed with the clerk of the appeal board,  
28 or if there is none, with the clerk of the legislative body within 10  
29 days after the action of the advisory agency from which the appeal  
30 is being taken.

31 (3) Upon the filing of an appeal, the appeal board or legislative  
32 body shall set the matter for hearing. The hearing shall be ~~set~~ *held*  
33 within 30 days after the date of a request filed by the subdivider  
34 or the appellant. If there is no regular meeting of the legislative  
35 body within the next 30 days for which notice can be given  
36 pursuant to Section 66451.3, the appeal may be heard at the next  
37 regular meeting for which notice can be given, or within 60 days  
38 from the date of the receipt of the request, whichever period is  
39 shorter. Within 10 days following the conclusion of the hearing,

1 the appeal board or legislative body shall render its decision on  
2 the appeal.

3 (b) (1) The subdivider, any tenant of the subject property, in  
4 the case of a conversion of residential real property to a  
5 condominium project, community apartment project, or stock  
6 cooperative project, or the advisory agency may appeal from the  
7 action of the appeal board to the legislative body. The appeal shall  
8 be filed in writing with the clerk of the legislative body within 10  
9 days after the action of the appeal board from which the appeal is  
10 being taken.

11 (2) After the filing of an appeal, the legislative body shall set  
12 the matter for hearing. The hearing shall be ~~set~~ *held* within 30 days  
13 after the date of the request filed by the subdivider or the appellant.  
14 If there is no regular meeting of the legislative body within the  
15 next 30 days for which notice can be given pursuant to Section  
16 66451.3, the appeal may be heard at the next regular meeting for  
17 which notice can be given, or within 60 days from the date of the  
18 receipt of the request, whichever period is shorter. Within 10 days  
19 following the conclusion of the hearing, the legislative body shall  
20 render its decision on the appeal.

21 (c) (1) If there is an appeal board and it fails to act upon an  
22 appeal within the time limit specified in this chapter, the decision  
23 from which the appeal was taken shall be deemed affirmed and an  
24 appeal therefrom may thereupon be taken to the legislative body  
25 as provided in subdivision (b) of this section. If no further appeal  
26 is taken, the tentative map, insofar as it complies with applicable  
27 requirements of this division and any local ordinance, shall be  
28 deemed approved or conditionally approved as last approved or  
29 conditionally approved by the advisory agency, and it shall be the  
30 duty of the clerk of the legislative body to certify or state that  
31 approval, or if the advisory agency is one which is not authorized  
32 by local ordinance to approve, conditionally approve, or disapprove  
33 the tentative map, the advisory agency shall submit its report to  
34 the legislative body as if no appeal had been taken.

35 (2) If the legislative body fails to act upon an appeal within the  
36 time limit specified in this chapter, the tentative map, insofar as it  
37 complies with applicable requirements of this division and any  
38 local ordinance, shall be deemed to be approved or conditionally  
39 approved as last approved or conditionally approved, and it shall

1 be the duty of the clerk of the legislative body to certify or state  
2 that approval.

3 (d) (1) Any interested person adversely affected by a decision  
4 of the advisory agency or appeal board may file an appeal with  
5 the legislative body concerning any decision of the advisory agency  
6 or appeal board. The appeal shall be filed with the clerk of the  
7 legislative body within 10 days after the action of the advisory  
8 agency or appeal board that is the subject of the appeal. Upon the  
9 filing of the appeal, the legislative body shall set the matter for  
10 hearing. The hearing shall be ~~set~~ *held* within 30 days after the date  
11 of a request filed by the subdivider or the appellant. If there is no  
12 regular meeting of the legislative body within the next 30 days for  
13 which notice can be given pursuant to Section 66451.3, the appeal  
14 may be heard at the next regular meeting for which notice can be  
15 given, or within 60 days from the date of the receipt of the request,  
16 whichever period is shorter. The hearing may be a public hearing  
17 for which notice shall be given in the time and manner provided.

18 (2) Upon conclusion of the hearing, the legislative body shall,  
19 within 10 days, declare its findings based upon the testimony and  
20 documents produced before it or before the advisory board or the  
21 appeal board. The legislative body may sustain, modify, reject, or  
22 overrule any recommendations or rulings of the advisory board or  
23 the appeal board and may make any findings that are not  
24 inconsistent with the provisions of this chapter or any local  
25 ordinance adopted pursuant to this chapter.

26 (e) Each decision made pursuant to this section shall be  
27 supported by findings that are consistent with the provisions of  
28 this division and any local ordinance adopted pursuant to this  
29 division.

30 (f) Notice of each hearing provided for in this section shall be  
31 sent by United States mail to each tenant of the subject property,  
32 in the case of a conversion of residential real property to a  
33 condominium project, community apartment project, or stock  
34 cooperative project, at least three days prior to the hearing. The  
35 notice requirement of this subdivision shall be deemed satisfied if  
36 the notice complies with the legal requirements for service by mail.  
37 Pursuant to Section 66451.2, fees may be collected from the  
38 subdivider or from persons appealing or filing an appeal for  
39 expenses incurred under this section.

SEC. 4. Section 66452.8 of the Government Code is amended to read:

66452.8. (a) Commencing at a date not less than 60 days prior to the filing of a tentative map pursuant to Section 66452, the subdivider or his or her agent shall give notice of the filing, in the form outlined in subdivision (b), to each person applying after that date for rental of a unit of the subject property immediately prior to the acceptance of any rent or deposit from the prospective tenant by the subdivider.

(b) The notice shall be as follows:

“To the prospective occupant(s) of

\_\_\_\_\_ :  
(address)

The owner(s) of this building, at (address), has filed or plans to file a tentative map with the (city, county, or city and county) to convert this building to a (condominium, community apartment, or stock cooperative project). No units may be sold in this building unless the conversion is approved by the (city, county, or city and county) and until after a public report is issued by the Department of Real Estate. If you become a tenant of this building, you shall be given notice of each hearing for which notice is required pursuant to Sections 66451.3 and 66452.5 of the Government Code, and you have the right to appear and the right to be heard at any such hearing.

\_\_\_\_\_  
(signature of owner or owner’s agent)

\_\_\_\_\_  
(dated)

I have received this notice on \_\_\_\_\_.  
(date)

\_\_\_\_\_  
(prospective tenant’s signature)”

(c) Failure by a subdivider or his or her agent to give the notice required in subdivision (a) shall not be grounds to deny the conversion. However, if the subdivider or his or her agent fails to give notice pursuant to this section, he or she shall pay to each

prospective tenant who becomes a tenant and who was entitled to the notice, and who does not purchase his or her unit pursuant to subparagraph (F) of paragraph (2) of subdivision (a) of Section 66427.1, an amount equal to the sum of the following:

(1) Actual moving expenses incurred when moving from the subject property, but not to exceed one thousand one hundred dollars (\$1,100).

(2) The first month's rent on the tenant's new rental unit, if any, immediately after moving from the subject property, but not to exceed one thousand one hundred dollars (\$1,100).

(d) The requirements of subdivision (c) constitute a minimum state standard. However, nothing in that subdivision shall be construed to prohibit any city, county, or city and county from requiring, by ordinance or charter provision, a subdivider to compensate any tenant, whose tenancy is terminated as the result of a condominium, community apartment project, or stock cooperative conversion, in amounts or by services which exceed those set forth in paragraphs (1) and (2) of that subdivision. If that requirement is imposed by any city, county, or city and county, a subdivider who meets the compensation requirements of the local ordinance or charter provision shall be deemed to satisfy the requirements of subdivision (c).

SEC. 5. Section 66452.9 of the Government Code is amended to read:

66452.9. (a) Pursuant to subparagraph (A) of paragraph (2) of subdivision (a) of Section 66427.1, the subdivider shall give notice 60 days prior to the filing of a tentative map pursuant to Section 66452 in the form outlined in subdivision (b), to each tenant of the subject property.

(b) The notice shall be as follows:

"To the occupant(s) of \_\_\_\_\_:  
(address)

The owner(s) of this building, at (address), plans to file a tentative map with the (city, county, or city and county) to convert this building to a (condominium, community apartment, or stock cooperative project). You shall be given notice of each hearing for which notice is required pursuant to Sections 66451.3 and 66452.5

1 of the Government Code, and you have the right to appear and the  
2 right to be heard at any such hearing.

3  
4 \_\_\_\_\_  
5 (signature of owner or owner's agent)

6 \_\_\_\_\_  
7 (date)"

8  
9 The written notices to tenants required by this section shall be  
10 deemed satisfied if the notices comply with the legal requirements  
11 for service by mail.

12 SEC. 6. Section 66452.11 is added to the Government Code,  
13 to read:

14 66452.11. (a) Pursuant to the provisions of subparagraph (E)  
15 of paragraph (2) of subdivision (a) of Section 66427.1, the  
16 subdivider shall give written notice of the intent to convert 180  
17 days prior to the termination of tenancy in the form outlined in  
18 subdivision (b), to each tenant of the subject property.

19 (b) The notice shall be as follows:

20 "To the occupant(s) of  
21 \_\_\_\_\_:

22 \_\_\_\_\_  
23 (address)  
24

25 The owner(s) of this building, at (address), plans to convert this  
26 building to a (condominium, community apartment, or stock  
27 cooperative project). This is a notice of the owner's intention to  
28 convert the building to a (condominium, community apartment,  
29 or stock cooperative project).

30 A tentative map to convert the building to a (condominium,  
31 community apartment, or stock cooperative project) was approved  
32 by the City on \_\_\_\_\_. If the City approves a final map, you  
33 may be required to vacate the premises, but that cannot happen  
34 for at least 180 days from the date this notice was served upon  
35 you.

36 Any future notice given to you to terminate your tenancy because  
37 of the conversion cannot be effective for at least 180 days from  
38 the date this notice was served upon you. This present notice is  
39 not a notice to terminate your tenancy; it is not a notice that you  
40 must now vacate the premises.



\_\_\_\_\_  
(signature of owner or owner's agent)

\_\_\_\_\_  
(date)''

The written notices to tenants required by this section shall be deemed satisfied if such notices comply with the legal requirements for service by mail.

SEC. 7. Section 66452.12 is added to the Government Code, to read:

66452.12. (a) Pursuant to subparagraph (F) of paragraph (2) of subdivision (a) of Section 66427.1, the subdivider shall give written notice on the date of issuance of the subdivision public report to each tenant of his or her exclusive right for at least 90 days to contract for the purchase of his or her respective unit in the form outlined in subdivision (b).

(b) The notice shall be as follows:

“To the occupant(s) of

\_\_\_\_\_  
(address)

The owner(s) of this building, at (address), have received the final subdivision report on the proposed conversion of this building to a (condominium, community apartment, or stock cooperative project). Commencing on this date you have the exclusive right for 90 days to contract for the purchase of your rental unit upon the same or more favorable terms and conditions than the unit will initially be offered to the general public.

\_\_\_\_\_  
(signature of owner or owner's agent)

\_\_\_\_\_  
(date)''

The written notices to tenants required by this section shall be deemed satisfied if the notices comply with the legal requirements for service by mail.

SEC. 8. Section 66459 of the Government Code is amended to read:

66459. (a) If a final map has been approved for a condominium project, community apartment project, or stock cooperative project, and the subdivider or subsequent owner of the project, on or after January 1, 1993, rents a dwelling in that project, he or she shall, prior to offering the separate interest for sale to the general public, deliver the following notice, printed in at least 14-point bold print, prior to the execution of the rental agreement:

TO THE PROSPECTIVE TENANTS OF

\_\_\_\_\_  
(address)

THE UNIT YOU MAY RENT HAS BEEN APPROVED FOR SALE TO THE PUBLIC AS A CONDOMINIUM PROJECT, COMMUNITY APARTMENT PROJECT, OR STOCK COOPERATIVE PROJECT (WHICHEVER APPLIES). THE RENTAL UNIT MAY BE SOLD TO THE PUBLIC, AND, IF IT IS OFFERED FOR SALE, YOUR LEASE MAY BE TERMINATED. YOU WILL BE NOTIFIED AT LEAST 90 DAYS PRIOR TO ANY OFFERING TO SELL. IF YOU STILL LAWFULLY RESIDE IN THE UNIT, YOU WILL BE GIVEN A RIGHT OF FIRST REFUSAL TO PURCHASE THE UNIT.

\_\_\_\_\_  
(signature of owner or owner's agent)

\_\_\_\_\_  
(dated)

(b) The condominium project, community apartment project, or stock cooperative project shall not be referred to in a lease or rental agreement as an "apartment" or "apartments" on or after the date of the approval by the local agency of the final map for the condominium project, community apartment project, or stock cooperative project in which the final map was approved on or after January 1, 1993.

(c) Any tenant of a condominium project, community apartment project, or stock cooperative project pursuant to this section shall be given at least 90 days' written notice of the intention to sell the rental unit to the general public. This subdivision shall not alter or abridge the rights or obligations of the parties in performance

1 of their covenants, including, but not limited to, the provision of  
2 services, payment of rent, or other obligations imposed by Sections  
3 1941, 1941.1, and 1941.2 of the Civil Code.

4 (d) Any tenant who lawfully resides in a condominium project,  
5 community apartment project, or stock cooperative project pursuant  
6 to this section shall be given a right of first refusal by the  
7 subdivider or subsequent owner of the project for the purchase of  
8 his or her rental unit upon the same terms and conditions that the  
9 unit will be initially offered to the general public or terms and  
10 conditions more favorable to the tenant. This right to purchase  
11 shall run for a period of 90 days from the date of the notice, unless  
12 the tenant gives written notice within the 90-day period of his or  
13 her intention not to exercise that right.

14 (e) Failure to comply with this section shall not invalidate the  
15 transfer of title to real property.

16 (f) Failure by a subdivider or his or her agent to give the notice  
17 required in subdivision (a) shall not be grounds to deny the  
18 conversion. However, if the subdivider or his or her agent fails to  
19 give notice pursuant to this section, he or she shall pay to each  
20 prospective tenant who becomes a tenant and who was entitled to  
21 that notice, and who does not purchase his or her unit pursuant to  
22 subparagraph (F) of paragraph (2) of subdivision (a) of Section  
23 66427.1, an amount equal to the sum of the following:

24 (1) Actual moving expenses incurred when moving from the  
25 subject property, but not to exceed one thousand one hundred  
26 dollars (\$1,100).

27 (2) The first month's rent on the tenant's new rental unit, if any,  
28 immediately after moving from the subject property, but not to  
29 exceed one thousand one hundred dollars (\$1,100).

30 (g) This section shall not apply to any of the following:

31 (1) An owner of four dwelling units or less.

32 (2) Transfers pursuant to court order, including, but not limited  
33 to, transfers ordered by a probate court in the administration of an  
34 estate, transfers by any foreclosure sale after default, transfers by  
35 any foreclosure sale after default in an obligation secured by a  
36 mortgage, or transfers by a sale under a power of sale after a default  
37 in an obligation secured by a deed of trust or secured by any other  
38 instrument containing a power of sale, and any subsequent transfer  
39 by a mortgagor or beneficiary of a deed of trust who accepts a

1 deed in lieu of foreclosure or purchases the property at a foreclosure  
2 sale.

3 (3) Transfers by a fiduciary in the course of the administration  
4 of a decedent's estate, guardianship, conservatorship, or trust. For  
5 purposes of this paragraph, a "fiduciary" means a state- or federally  
6 chartered bank, trust company, savings association, savings bank,  
7 credit union, or industrial loan company.

8 SEC. 9. Section 66499.37 of the Government Code is amended  
9 to read:

10 66499.37. Any action or proceeding to attack, review, set aside,  
11 void, or annul the decision of an advisory agency, appeal board,  
12 or legislative body concerning a subdivision, or of any of the  
13 proceedings, acts, or determinations taken, done, or made prior to  
14 the decision, or to determine the reasonableness, legality, or validity  
15 of any condition attached thereto, including, but not limited to, the  
16 approval of a tentative map or final map, shall not be maintained  
17 by any person unless the action or proceeding is commenced and  
18 service of summons effected within 90 days after the date of the  
19 decision. Thereafter all persons are barred from any action or  
20 proceeding or any defense of invalidity or unreasonableness of the  
21 decision or of the proceedings, acts, or determinations. The  
22 proceeding shall take precedence over all matters of the calendar  
23 of the court except criminal, probate, eminent domain, forcible  
24 entry, and unlawful detainer proceedings.